

## Questions Related to the Submission of Annual Statements of Earned Income (§ 91A)

### Who must file an Annual Statement of Earned Income?

**All** disability retirees **must** file an Annual Statement of Earned Income, even if they did not have any income during the year, according to M.G.L. § 91A.

### What happens if I don't file an Annual Statement of Earned Income or submit the other documents required by PERAC?

In accordance with § 91A, if a disability retiree fails to submit an Annual Statement of Earned Income and the tax forms required by PERAC, and does not show good cause for this failure, the member's rights to a disability retirement allowance will cease and will not be reinstated until the member has complied with the reporting requirement.

### Does the PERAC validate the earnings reported by disability retirees?

The reported earnings are validated in a number of ways. Since retirees sign their Annual Statements of Earned Income under the pains and penalties of perjury, it is very important to report fully and accurately.

### Can a retirement board simply reduce or terminate a disability retiree's benefits without any notice or without giving the retiree a chance to be heard?

**No.** Prior to any termination or reduction of benefits pursuant to § 91A, the retiree must be given written notice and an opportunity to be heard by the retirement board. If benefits are terminated or reduced, the retiree has the right to appeal this action to the Contributory Retirement Appeal Board.

### What is earned income?

Earned income is defined as implying some labor, management, or supervision in production thereof. Profits derived from the operation of a business through some labor, management, or supervision in production of such profits are earned income, regardless of how a retiree categorizes such income for income taxes or other purposes.

### Is salary contributed to a deferred compensation or 401(k) plan earned income in the year it is contributed?

**Yes.** For the purpose of § 91A, salary that is contributed to a deferred compensation (elective deferral) or 401(k) plan is earned income in the year it is earned and contributed to the retirement plan. Examples of such plans are 401(k), 457, federal thrift savings, SARSEP, SIMPLE, tax shelter annuities and Section 501(c)(18)(D) plans. Distributions from these plans are not earned income when they are taken at retirement.

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**Am I allowed to work while receiving my disability retirement allowance?**

**Yes.** Section 91A of Chapter 32 of the Massachusetts General Laws provides that a disability retiree's earnings, when added to his/her retirement allowance (pension plus annuity), cannot exceed the regular compensation (salary) the member would have received had he/she remained in active service plus \$5,000. (**See Earned Income Worksheet.**)

Please note that certain payments including bonuses, overtime, severance pay, any and all unused vacation or sick leave, early retirement incentive, or any other payments made as a result of giving notice of retirement are not considered part of regular compensation. (**See PERAC Regulations 840 CMR 15.30**)

Also, please note that another section of the retirement law (§ 91) further limits the amount that any retiree may be paid for public sector work in Massachusetts. It is the retiree's responsibility to advise the person responsible for paying his/her compensation that he or she is a public retiree and, as a result, his/her post-retirement earnings in the public sector are limited. (**See Earned Income Worksheet.**)

**How can I determine how much regular compensation is currently being paid for the position from which I retired?**

You should contact the personnel office of the governmental unit from which you retired.

**What other forms am I required to file with my Annual Statement of Earned Income ?**

If you file a federal income tax return, even if it is filed jointly and the only income is attributable to the spouse, you must attach a copy of the first two pages of your U.S. Individual Income Tax Return, Federal Form 1040, 1040A, or 1040EZ.

If you have requested an extension of time to file your Federal tax returns, you must still complete and file the Annual Statement of Earned Income, and attach a copy of the Automatic Extension Request Form 4868 by the filing deadline.

If your Federal tax return is filed electronically, you must print out a copy of your completed tax return in order to attach the required copies to the Annual Statement of Earned Income. If you file by telephone, you must submit a copy of the telephone (TeleFile) filing worksheet with the confirmation number on it.

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If you derived income from employment, you must attach copies of any and all W2 or 1099 forms related to that employment. Forms 1099 that are associated with interest or dividends and Form 1099R (issued by retirement boards to their retirees) should not be submitted.

If you engaged in any self-employment during the calendar year, you must attach all Schedule "C"s, "K-1"s, Corporation returns or Partnership returns, as well as the first two pages of your Federal income tax return (Form 1040).

If you derived income during the calendar year from a business in which you, your spouse, or dependent child had a proprietary (ownership) interest, in addition to the first two pages of Form 1040, you must also attach a copy of the first two pages of the Corporate Return Form 1120 or 1120S, Partnership Form 1065, Sole-Proprietorship Schedule "C", as well as any and all "K-1" forms.

### **If a disability retiree has been confined to a nursing home or has been declared mentally incompetent and has difficulty in completing the Annual Statement of Earned Income, what should be done?**

If at all possible, the retiree should fill out the form and sign it. However, the person acting as the retiree's guardian may fill out the form on his/her behalf. The form should be returned to PERAC. Inclusion of a note explaining the retiree's status would be helpful.

### **If an Annual Statement of Earned Income is sent to a deceased retiree, what should be done with the form?**

Although PERAC makes every effort to avoid this situation, it can occur. Survivors or executors of the deceased's estate should simply return the Earned Income Statement to PERAC with a note that the retiree has passed away, along with the date of death. Having been so informed, we will update our records and no additional requests for earnings information will be generated.

### **Why, on the Annual Statement of Earned Income, do you ask disability retirees to answer whether they were incarcerated during any portion of the calendar year?**

Retirement Allowance benefits to a disability retiree who is incarcerated for a felony committed on or after July 1, 1996 must cease for the period of incarceration. In order to ensure compliance with this statute, a response from each retiree is required.

### **If I have a question about completing the Annual Statement of Earned Income, whom should I call at PERAC?**

Contact Sandra King. Her telephone number is 617- 666-4446, ext. 947. We urge you to leave a voice mail message with your name and telephone number, if Ms. King is unable to take your call. Calls will be returned as quickly as possible.

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### **When should the Annual Statement of Earned Income be mailed to PERAC?**

PERAC must receive your completed form by April 15th. Before mailing the Annual Statement of Earned Income, make sure that the form is signed and complete, and that all required documents are in order. If any documents are missing or incomplete, your Earned Income Statement will be returned to you.

### **Will a faxed copy of my Annual Statement of Earned Income be accepted ?**

**No.** For your convenience, a blue pre-addressed envelope has been provided for you. Some suggested ways to return your statements are: regular first class mail, certified mail, or Federal Express.